BILL NO. Z-95-11-18

ZONING MAP ORDINANCE NO. Z-13-95

AN ORDINANCE amending the City of
Fort Wayne Zoning Map No. V-30.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated a B-1-B (Limited Business) District under the terms of Chapter 157 Title XV of the Code of the City of Fort Wayne, Indiana of 1974:

Commencing at the Southwest corner of the Southwest One-quarter of Section 22, Township 31 North, Range 13 East, as now established; thence North 0 degree 00 minute East along the West line of said Southwest One-quarter as now established, a distance of 250.0 feet; thence North 89 degrees 34 minutes East and parallel to the South line of said Southwest One-quarter, a distance of 721.70 feet deed to the point of beginning.

BEGINNING at the above described point; thence North 0 degree 00 minute East, a distance of 724.10 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 120.39 feet; thence South 15 degrees 10 minutes 22 seconds West a distance of 295.0 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 108.68 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 289.09 feet; thence North 89 degrees 34 minutes East, a distance of 389.21 feet; thence South 0 degree 04 minutes 32 seconds East, a distance of 50.0 feet; thence South 89 degrees 34 minutes West, a distance of 241.92 feet; thence South 0 degree 04 minutes 32 seconds East, a distance of 50.0 feet; thence South 89 degrees 34 minutes West, a distance of 215.60 feet to the point of beginning, containing 2.06 acres of land, more or less.

and the symbols of the City of Fort Wayne Zoning Map No. V-30, as established by Section 157.016 of Title XV of the Code of the City of Fort Wayne, Indiana are hereby changed accordingly.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Councilmember

APPROVED AS TO FORM AND LEGALITY:

J. TIMOTHY MCCAULAY, CITY ATTORNEY

Read the first time in full and on motion by Haine, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____M., E.S.T.

DATED: 11-14-95

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Haine, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	8			1
BRADBURY	✓			
EDMONDS	✓			
GiaQUINTA	✓			
HENRY				✓
LONG	✓			
LUNSEY	✓			
RAVINE	✓			
SCHMIDT	✓			
TALARICO	✓			

DATED: 12-19-95

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE ~~RESOLUTION~~ NO. 13-95 on the 19th day of December, 1995

ATTEST: (SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Don J. Schmidt
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 20th day of December, 1995, at the hour of 3:00 o'clock P.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 20th day of December, 1995, at the hour of 3:30 o'clock P M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

BILL NO. Z-95-11-18

REPORT OF THE COMMITTEE ON
REGULATIONS
CLETUS R. EDMONDS - REBECCA J. RAVINE - CO-CHAIR
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending the City of Fort Wayne Zoning Map No. V-30

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (~~RESOLUTION~~)

DO PASS	DO NOT PASS	ABSTAIN	NO REC
Sam Talarico			
Mark E. Gaskins			
[illegible]			
J G Bradbury			
[illegible]			
[illegible]			
[illegible]			
Cletus R Edmonds			

DATED: 12-19-95

Sandra E. Kennedy
City Clerk

PRESCRIBED BY STATE BOARD OF ACCOUNTS BOYCE FORMS SYSTEMS, MUNCIE, IN.

COMMUNITY & ECONOMIC DEVELOPMENT

FT. WAYNE, IN., 10/17

RECEIVED FROM Scott

THE SUM OF Three hun

ON ACCOUNT OF legal

43

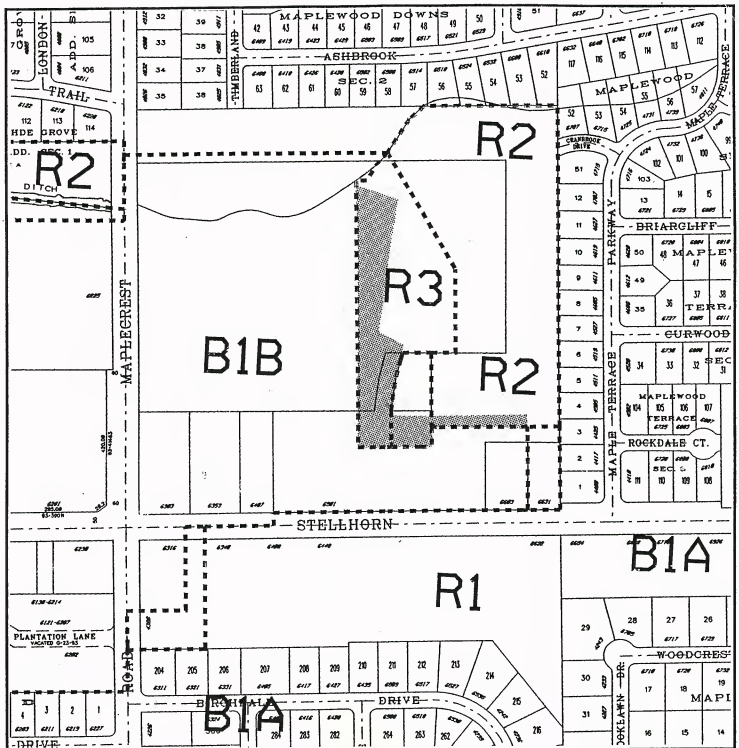
221088

PAID BY: CASH ☐ CHECK ☒ M.O. ☐

REZONING PETITION

AREA MAP

CASE NO. #600



COUNCILMANIC DISTRICT NO. 2

Map No. V - 30
LW 10-22-95

R1	One-Family	**B1**	Limited Business	**M1**	Light Industrial
R2	Two-Family	**B2**	Planned Shopping Center	**M2**	General Industrial
R3	Multi-Family	**B3**	General Business	**M3**	Heavy Industrial
RA/RB	Residential	**B4**	Roadside Business	**MHP**	Mobile Home Park
PUD	Planned Unit Dev.	**POD**	Professional Office District		

Petition for a Zoning Map Amendment

Community & Economic Development / 1 Main Street Rm 830 / Fort Wayne, IN 46802 / (219) 427-1140

#60

I/We MacKids, Incorporated do hereby petition to amend the Zoning Map of the City of Fort Wayne Indiana, by reclassifying from ~~a/an~~ R3, R2 & R1 designation to ~~a/an~~ B1B designation, the property located at the common street address of: 4522 Maplecrest Road, Fort Wayne, Indiana 46835 and further described as follows:

See attached Exhibit "A"

(Please attach a legal description if more space is needed.)

The purpose of this proposed rezoning is to permit the use of the property for the following:

Addition to Scott's supermarket and parking spaces for the same. Also, continuation of driveway from Stellhorn Road through undeveloped land to shopping center development.

Property owners Name(s): MacKids, Incorporated

Street Address: 410 Regency Park Lane

City: Noblesville State: IN Zip: 46060 Phone: 317-877-2088

Applicants Name (if different from above): SV Ventures, an Indiana General Partnership and Scott's Food Stores, Inc.

Street Address: 4118 N. Clinton Street

City: Fort Wayne State: IN Zip: 46805 Phone: 219/483-9537

I/We the undersigned, do hereby certify that I am/We are the owner(s) of more than fifty percent (50%) of the property described in this petition; that I/we agree to abide by all provisions of the Fort Wayne Zoning Ordinance as well as all procedures and policies of the Fort Wayne City Plan Commission as relating to the handling and disposition of this petition; and that the above information is true and accurate to the best of my/our knowledge.

Signature	Printed Name	Date
Charles R. McLouchin	MacKids, Incorporated By: Charles R. McLouchin its President	10/11/95

Notes to the Applicant:

- If additional space is needed for either a legal description, or property owners names addresses and signatures, please attach same to this form.
- All requests for deferrals, continuances, withdrawals, or request that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice being submitted to the newspaper for publication.
- Filing of this petition grants the City of Fort Wayne permission to post "Official Notice" on the petitioned property. Failure to post, or to maintain posting may prevent the public hearing from being held.
- All checks should be made payable to: City of Fort Wayne.

Name and address of preparer, attorney or agent.

Peter G. Mallers
BEERS, MALLERS, BACKS & SALIN
110 W. Berry St., Suite 1100
Fort Wayne, IN 46802

219/426-9706
Telephone Number

Form Rez494

Receipt #: Date Filed:

Map #: Reference #:

REZONING DESCRIPTION FROM R3 AND R1 TO B1B

COMMENCING at the Southwest corner of the Southwest One-quarter of Section 22, Township 31 North, Range 13 East, as now established; thence North 0 degree 00 minute East along the West line of said Southwest One-quarter as now established, a distance of 250.0 feet; thence North 89 degrees 34 minutes East and parallel to the South line of said Southwest One-quarter, a distance of 721.70 feet deed to the point of beginning.

BEGINNING at the above described point; thence North 0 degree 00 minute East, a distance of 724.10 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 120.39 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 295.0 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 108.68 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 289.09 feet; thence North 89 degrees 34 minutes East, a distance of 389.21 feet; thence South 0 degrees 04 minutes 32 seconds East, a distance of 50.0 feet; thence South 89 degrees 34 minutes West, a distance of 241.92 feet; thence South 0 degree 04 minutes 32 seconds East, a distance of 50.0 feet; thence South 89 degrees 34 minutes West, a distance of 215.60 feet to the point of beginning, containing 2.06 acres of land, more or less.

EXHIBIT "A"

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on November 14, 1995 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-95-11-18; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on November 20, 1995.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;

(3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,

(5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held November 27, 1995.

Certified and signed this
30th day of November 1995.

Carol Kettler Sharp

Carol Kettler Sharp
Secretary

Public Hearing on Zoning Map Amendments

a. Bill No. Z-95-11-18 - Change of Zone #600
From R1/R2 & R3 to B1B
6600 Block of Stellhorn Road

Pete Mallers, attorney, appeared before the Commission representing the petitioner, SV Ventures. Mr. Mallers stated that this rezoning is for 2.06 acres in Stellhorn Village Shopping Center. He stated that the purpose of the proposed rezoning is for the expansion of the existing Scott's Food Store. He stated that the petition is a result of an agreement by the applicant to purchase, 8.03 acres from the developer of the shopping center, McKids Inc. The agreement to purchase is conditional on the expansion of the store, and the expansion of the store, is conditional on this rezoning. He stated that the existing Scott's Store is approximately 56,000 square feet in area. The proposed addition is approximately 24,000 square feet. He stated that they are asking to rezone only what they will need to expand the building and for additional parking. He stated that this Scott's is the busiest supermarket in the entire county. He stated that the expansion is necessary for that reason. He stated that when this property was originally developed in 1987 by McKids Inc., it was outside of the city limits. After it was annexed the zoning was changed in 1993 from B2A to its present classification of B1B. The developer and McKids Inc., made certain commitments, some of which, have not been fulfilled. He stated that this has led to a lot of frustration for a number of people, including the city, and neighbors. He stated that Super Valu and Scott's was not a part of that development, other than as tenants. He stated that now as a proposed purchaser, they recognize that they have a greater stake in the shopping center. He stated that they have taken steps to try and resolve the unresolved matters. He stated that they have met with the association board, interested members of Maplewood Downs Association, which is to the north of the development, Maplewood Terrace to the east, Maplewood Park to the south and Bohde Grove which is north and west of Maplecrest Road. He stated that they heard their concerns and they have addressed some already, even though these concerns are not their responsibility. One of the items that is most significant, is the landscaping to the north. The developer was to have completed landscaping according to a plan approved by the city and it was not done. He stated that the petitioners have completed the landscaping. Traffic has been a problem, but they can not do much about that. He stated that they believe that this rezoning and the completion of the road into the parking lot will greatly improve the flow within the center itself. He stated that noise has been a problem in the area. He stated it is usually generated from refrigerated trucks being parked on the on the north side of the store. The expansion will permit them to move most of the storage, if not all of it, into the store itself, and this will greatly reduce the noise. The drainage has been a problem. He stated that there is a legal drain on the property. He stated that the drain has not been probably maintained, and they have taken steps to clean it. He stated they will continue to maintain it, to the

extent that they can, if they are able to purchase the land. He stated that they will be required to increase the size of the retention pond and they feel that will also assist in the drainage. The east boundary that is owned by the developer, it borders Mapelwood Terrace, they have heard this is a problem. He stated that area is out of their control, it is not even close to what they are purchasing. He stated that they have indicated a willingness to due some basic landscaping. He stated that anything they do will be subject to the consent of and the specific agreement with the developer. He stated that they are not even sure that the residents want them to do landscaping. They have heard different views. He stated that some people would like to have the existing mound removed. He stated at this point they are unwilling to make any commitment, because they are not sure what everyone wants. He stated that long term maintenance of the center has been a concern. He stated that they are trying to reach an agreement with the developer so that they will be responsible for the maintenance of the shopping center. He stated that they have not yet reached that agreement, but they can say that as owner of 8 acres within the center, they are going to have a major stake in the center and they are going to stay on top of the situation. He stated that there are certain concerns that are out of their control. The maintenance of the field, kids congregating in the field, future development. He stated that they have no ability to address those matters. He stated that they do recognize the concerns of the neighbors. He stated given that this is a proposed extension of an existing use, adjacent to the B1B zoning, they feel it is clearly consistent with the Comprehensive Plan. He stated that since 1993 there has been development of some of the outlots. There has also been population growth and they are drawing from a much larger area. So there have been changes in the areas circumstances, even since 1993. He stated the proposed addition will clearly fit within the character of the structures and uses that already exist. The most desirable use for the land, they feel is as a shopping center. They feel that as long as there is sufficient buffer between the existing business use and the residential uses, to the east, that the best use is as a shopping center. He stated that they have currently 15 acres of land zoned R-2 & R-3 that is undeveloped. The conservation of property values is the next consideration. They feel that rezoning 2 acres out of this entire center would have absolutely no effect, given the existence of the center since 1987. However, they have undertaken an analysis for properties bordering the shopping center and that analysis shows that there has been annual appreciation of these property of approximately 2%. The last concern is responsible development growth. This growth results from a necessary expansion. If they can not expand in time, the site will no longer be appropriate for the grocery store. The vacating of the site would not be responsible development. By buying the land and having a greater stake in the center, will result in more responsibility on the part of the major user in the shopping center. Given the insignificant increase in the B1B zone, the ability to meet the demand of the public, and permitting construction of the road, they feel this is all responsible

development.

Mel Smith questioned where the nearest traffic light was located.

Mr. Mallers stated that it was at Maplecrest across from the entrance to Northwood and then the corner of Stellhorn and Maplecrest.

Dave Ross questioned if the city requires a buffer between residential and commercial zoning.

Wayne O'Brien, Planner II, with C&ED, stated that when this property was initially rezoned, it was a planned shopping center, and the city would require buffering. When the property was rezoned to B1B the city lost the ability to require buffering, except in very unique and special cases. Typically the only thing the city would require would be buffering requirements in connection with the parking lots. So the petitioner's voluntary statement that he would meet with the neighborhood people and discuss the landscape requirement that was previously proposed has been well supported by the staff.

Jay Herbrand, 6518 Ashbrook Drive, President of Maplewood Terrace and Downs, appeared before the Commission in favor of the proposed rezoning. He stated that he would like to thank Scott's & SuperValu for taking the time and effort to notify them and inform them what the proposed rezoning is going to involve. He stated that they feel that they have an understanding from the meetings with the petitioner of both sides. He stated that they realize that Scott's SuperValu cannot solve all of the problems in the development, however, they feel that as a property owner they are going to have a better situation than they have right now. He stated that there is no opinion in the neighborhood against Scott's expanding and doing the rezoning. He stated that they are concerned about the proximity of the curb cut onto Stellhorn to the entrance of the neighborhood of Maplewood Terrace. It is only about 300 feet from the proposed entrance. He stated that there is a Fazoli's there and there is a lot of turn in and out traffic. He felt that this current traffic would be minuscule compared to the traffic that Scott's parking lot will generate when it is tied into this curb cut. He stated that he really does not at this time know of any solution to the problem, but it is a concern to the people in the area. He stated that drainage is a problem in the area. He stated that a retention pond over the years has been less and less helpful.

Dave Ross questioned if his statement was that there is no opposition to the rezoning.

Mr. Herbrand stated that the neighborhood voted for the rezoning with conditions. He stated he does feel that the neighborhood feels that Scott's does have their interest at heart.

Cheryl Scott, 4118 N Clinton Street, appeared before the

Commission. She stated that she was speaking on behalf of Scott's. She stated that she hoped the Commission realized their commitment to the area.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

FACT SHEET

Z-95-11-18
BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE: Zoning Map Amendment

From R1/R2/R3 to B1B

APPROVAL DEADLINE:

REASON:

DETAILS

Specific Location and/or Address

6600 Block Stellhorn Road

Reason for Project

Expansion of the existing Scotts' store and a new ingress-egress connection to an access on Stellhorn Road.

Discussion (Including relationship to other Council actions)

20 November 1995 - Public Hearing

See Attached Minutes of Meeting

27 November 1995 - Business Meeting

Motion was made by Dave Ross, seconded by Tom Quirk to return the ordinance to the Common Council with a DO PASS recommendation.

Of the eight (8) members present, seven (7) voted in favor of the motion, the Chair did not vote.

Motion Carried

Members Present: Linda Buskirk, Ernest Evans, James Hoch, Thomas Quirk, Dave Ross, Donald Schmidt, Mel Smith, Vicky VerPlanck

Member Absent: Carol Kettler Sharp

POSITIONS	RECOMMENDATIONS
Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) SV Ventures & Scott's Food Stores Inc. City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	[x] For [ ] Against Reason Against
Board or Commission Recommendation	By [x] For [ ] Against [ ] No Action Taken [ ] For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	[ ] Pass [ ] Other [ ] Pass (as amended) [ ] Hold [ ] Council Sub. [ ] Do not pass

DETAILS

POLICY/PROGRAM IMPACT

Policy or Program Change	☐ No ☐ Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start Date 17 October 1995

Projected Completion or Occupancy Date 30 November 1995

Fact Sheet Prepared by Date 30 November 1995
Patricia Biancaniello

Reviewed by Date 4 December 1995

Reference or Case Number

#600 ORIGINAL ORIGINAL

DIGEST SHEET

TITLE OF ORDINANCE Zoning Map Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE 4522 Maplecrest Road

2-95-11.18

EFFECT OF PASSAGE Property is currently zoned R-1 -Single Family; R-2 - Two-Family and R-3 Multi-Family Residential. Property will be zoned B-1-B - Limited Business District.

EFFECT OF NON-PASSAGE Property will remain zoned R-1 - Single Family; R-2 - Two-Family and R-3 - Multi-Family Residential.

MONEY INVOLVED (Direct Costs, Expenditures, Savings)

(ASSIGN TO COMMITTEE)